

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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D&T PARTNERS, LLC, successor-in-interest to ACET Venture Partners, LLC, <i>et al</i>	§ § § §
<i>Plaintiff,</i>	§ § § §
	§
v.	§ § § §
BAYMARK PARTNERS, LP, <i>et al.</i> ,	§ § §
<i>Defendants.</i>	§ §

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**WINDSPEED AND MR. SZETO'S MOTION TO DISMISS  
FIRST AMENDED COMPLAINT PURSUANT TO RULE 12(b)(6)**

TO THE HON. JANE J. BOYLE;  
UNITED STATES DISTRICT JUDGE:

COMES NOW in this cause defendants Windspeed Trading, LLC (“Windspeed”) and William Szeto (“Mr. Szeto,” and together with Windspeed, “Defendants”), and files this, its *Windspeed and Mr. Szeto’s Motion to Dismiss First Amended Complaint Pursuant to Rule 12(b)(6) and Brief in Support* (the “Motion”). In support of the Motion, Plaintiff would respectfully show the Court as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the controversy under 28 U.S.C. § 1332.
2. Venue is proper in the Northern District of Texas, Dallas Division, under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions that give rise to the controversy occurred in this Division and District. The statutory predicate for this Motion is FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6).

**II. RELIEF REQUESTED AND BASIS THEREFORE**

3. Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6), this Motion seeks to dismiss all claims asserted by D&T Partners, LLC (“Plaintiff”), directly and derivatively on behalf of ACET Global, LLC (“ACET”) and Baymark ACET Holdco, LLC (“Holdco”), against Defendants. As alleged in other motions to dismiss filed by the other defendants in this matter, Plaintiff lacks standing to assert claims on behalf of ACET and Holdco. Dismissal of Counts I-III is sought as Plaintiff fails to plausibly allege that Defendants are RICO “persons” in a racketeering enterprise, and/or RICO enterprises themselves, and fails to meet the Rule 9(b) heightened standards that Defendants had the specific intent to participate in racketeering activity. Furthermore, dismissal of Counts IV-VIII (the “State Court Claims”) against Defendants is warranted because Plaintiff does not plausibly assert facts upon which these claims for relief can be granted. Furthermore, most of these claims are premised on allegations of fraud, which require Plaintiff to adhere to the heightened standards of Rule 9(b). Plaintiff fails to make any allegations evidencing a specific intent of fraud from either of Defendants.

**III. CONCLUSION AND PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray this Court grant the Motion and dismiss with prejudice all causes of action asserted by Plaintiff in its First Amended Complaint. Defendants further respectfully request any additional relief to which they may be justly entitled.

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Dated: November 3, 2021  
Dallas, Texas

HIGIER ALLEN & LAUTIN, PC

By: /s/ Gordon W. Green  
Jason T. Rodriguez  
Texas State Bar No. 24042827  
*Attorney-In-Charge*  
Timothy P. Woods  
Texas State Bar No. 21965500  
Gordon W. Green  
Texas State Bar No. 24083102  
HIGIER ALLEN & LAUTIN, P.C.  
2711 N. Haskell Ave., Suite 2400  
Dallas, Texas 75204  
Telephone: (972) 716-1888  
Facsimile: (972) 716-1899  
[jrodriguez@higierallen.com](mailto:jrodriguez@higierallen.com)  
[twoods@higierallen.com](mailto:twoods@higierallen.com)  
[ggreen@higierallen.com](mailto:ggreen@higierallen.com)

ATTORNEYS FOR WINDSPEED  
TRADING, LLC, MR. WILLIAM SZETO,  
MS. ZHEXIAN LIN, MS. DANA MARIE  
TOMERLIN, MS. PADASAMAI  
VATTANA; MS. PAULA KETTER, MS.  
VANESSA TORRES

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3<sup>rd</sup> day of November 2021, a true and correct copy of the foregoing document was served *via* the Court's ECF system and by email to the following parties.

Jason B. Freeman Freeman Law, PLLC 2595 Dallas Parkway, Suite 420 Frisco, Texas 75034 <a href="mailto:jason@freemanlaw-pllc.com">jason@freemanlaw-pllc.com</a>  <b>Counsel for Plaintiff</b>	Edward P. Perrin, Jr. Jennifer R. Poe HALLETT & PERRIN, P.C. 1445 Ross Ave., Suite 2400 Dallas, Texas 75202 <a href="mailto:eperrin@hallettperrin.com">eperrin@hallettperrin.com</a> <a href="mailto:jpoe@hallettperrin.com">jpoe@hallettperrin.com</a>  <b>Counsel for Baymark Defendants</b>
John David Blakley William D. Dunn DUNN SHEEHAN, LLP 3400 Carlisle Street, Suite 200 Dallas, Texas 75204 <a href="mailto:jdblakley@dunnsheehan.com">jdblakley@dunnsheehan.com</a>  <b>Counsel for Super G Capital, LLC and Steven Bellah</b>	Andrea Levin Kim DANIELS TREDENNICK, PLLC 6363 Woodway Dr., Ste. 700 Houston, Texas 77057 <a href="mailto:andrea.kim@dtlawyers.com">andrea.kim@dtlawyers.com</a>  Rachel Williams WILLIAMS LAW, PC 10300 N. Central Expy., Ste. 544 Dallas, Texas 75231  <b>Counsel for SG Credit Partners, Inc. and Marc Cole</b>

/s/ Gordon W. Green

Gordon W. Green